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c 66 Boards of Trade General Arbitration Act

Ontario

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CHAPTER 66.

An Act enabling Boards of Trade in Cities to appoint General Arbitrators for certain purposes.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title. 1. This Act may be cited as *The Boards of Trade General Arbitration Act*. 9 Edw. VII. c. 36, s. 1.
- Interpretation. "Board." 2. In this Act "Board" shall mean the Board of Trade of the City of Toronto. 9 Edw. VII. c. 36, s. 2.
- Chamber of arbitration. 3. The Council of the Board shall from time to time determine the number of persons which, in the opinion of the Council, shall be sufficient to form a Chamber of Arbitration, from whom boards of arbitration may be selected to hear and decide controversies, disputes and misunderstandings which may be voluntarily submitted to them for arbitration. 9 Edw. VII. c. 36, s. 3.
- Nomination of persons to act as arbitrators. 4.—(1) The Council shall nominate not less than thirty persons who shall have given their consent in writing to act as arbitrators, from whom there shall be elected by ballot by the members of the Board at a special meeting called for that purpose the number so determined upon by the Council as sufficient to form a Chamber of Arbitration.
- Qualification. (2) Any person so elected may but need not be a member of the Board.
- Persons elected to be gazetted. (3) Immediately after the election a list of the persons elected shall be published in the *Ontario Gazette* and such other newspapers as the Council of the Board may determine.
- Term of office of arbitrators. (4) The appointment shall be for two years from the date of the election, but if at the expiration of the two years an arbitration shall be pending before an arbitrator his appointment, so far as such unfinished business is concerned, shall continue until such business is determined.
- Names of arbitrators to be kept posted up. (5) The names of the members of the Chamber of Arbitration shall be kept continuously posted in the offices of the Board. 9 Edw. VII. c. 36, s. 4.
- Arbitrators to be sworn. 5.—(1) The persons so elected before acting shall take and subscribe an oath, Form 2.

(2) The oath shall be filed with the Secretary of the Board. Oath to be filed.
9 Edw. VII. c. 36, s. 5.

6. If any person so elected is convicted of an indictable offence his appointment shall forthwith be vacated, and, if he is engaged in an arbitration before three arbitrators, the other two arbitrators shall have all the powers of the three to continue such arbitration and make an award. Disqualification of arbitrators.
9 Edw. VII. c. 36, s. 6.

7. The Board shall provide persons who submit to arbitration under this Act with a place in which the arbitration may be held and with all necessary forms and papers, and shall assist them in the course of the arbitration. Rooms to be provided.
9 Edw. VII. c. 36, s. 7.

8. The Secretary of the Board shall be *ex-officio* Registrar of all boards of arbitration unless the Board of Trade makes a special appointment, and the duties of the Registrar, in addition to any duties which the Council of the Board may by rules in writing prescribe, shall be Registrar and his duties.

(a) to receive submissions and payment of fees and costs;

(b) to notify the arbitrators of their appointment;

(c) to give notice of hearing to the parties;

(d) to issue summonses for the attendance of witnesses and the production of documents;

(e) to keep a register of submissions, awards and reconciliations, and such other books and memoranda, and to make such returns as the Council of the Board shall require;

(f) to render such assistance to the arbitrators as they may require; and

(g) to carry out generally the instructions of the Board of Trade. 9 Edw. VII. c. 36, s. 8.

9. All arbitrations shall be held before one, two or three arbitrators, according to the agreement of the parties. Number of arbitrators at arbitrations.
9 Edw. VII. c. 36, s. 9.

10. A submission to arbitration may be according to Form 1, and when filed with the Registrar shall not be revocable. Submission not revocable.
9 Edw. VII. c. 36, s. 10.

11. The Registrar on the application of any party may issue a summons, Form 3, requiring the attendance of a witness, and the production of any document or thing before the arbitrators; and disobedience of such summons by any Compelling attendance of witnesses.

witness shall render him liable to the same extent and in the same manner as the disobedience of a subpoena issued out of the Supreme Court. 9 Edw. VII. c. 36, s. 11.

Witnesses to
be examined
on oath.

12. Persons giving evidence before the arbitrators shall be examined on oath, which may be administered by an arbitrator or by the Registrar. 9 Edw. VII. c. 36, s. 12.

Production of
documents
by parties.

13. The parties shall produce before the arbitrators all documents and things in their possession or control which the arbitrators may require. 9 Edw. VII. c. 36, s. 13.

When arbit-
rators may
proceed
ex parte.

14. The arbitrators may proceed in the absence of any party who, after reasonable notice, does not attend on the reference unless he has previously shown to the arbitrators good cause for not attending. 9 Edw. VII. c. 36, s. 14.

Power to
enlarge time
for award.

15. The arbitrators shall make their award within twenty-one days after the making of the submission, or on or before any later day to which they may in writing signed by them from time to time enlarge the time for making the award. 9 Edw. VII. c. 36, s. 15.

Award to be
in writing.

16. The arbitrators shall make and publish their award in writing signed by the arbitrators making the same, and shall deposit it with the Registrar; and every party to the reference may have a copy thereof upon payment of ten cents per folio of one hundred words, and of the fees hereinafter provided for. 9 Edw. VII. c. 36, s. 16.

Arbitrations
to continue *de
die in diem*.

17. The reference shall be continued from day to day so far as circumstances permit, and subject to such adjournments as the arbitrators shall think necessary or just. 9 Edw. VII. c. 36, s. 17.

Barristers and
solicitors.

18. If a party desires to be represented by a barrister, solicitor or agent, he shall, before the hearing, give two days' notice thereof to the Registrar, who shall forthwith inform the other party, who thereafter may be represented by a barrister, solicitor or agent without any notice. 9 Edw. VII. c. 36, s. 18.

Authority of
agents.

19. Every person other than a barrister or solicitor appearing as the representative of a party shall file with the Registrar a letter signed by the party authorizing such person to represent him; otherwise such person shall not, without the consent of the other party, take any part in the proceedings. 9 Edw. VII. c. 36, s. 19.

Special case.

20. The attendance of parties may be dispensed with if they prefer jointly to state a case, to be filed with the Registrar, and agree to accept the decision of the arbitrators

thereon, and the award shall then be made on such stated case. 9 Edw. VII. c. 36, s. 20.

21. The sittings shall not be considered public and no person except the parties and their representatives and witnesses shall be admitted thereto without the permission of the arbitrators which shall not be given if objected to by any of the parties, or be given to newspaper reporters without the special request of all parties. 9 Edw. VII. c. 36, s. 21.

Sittings not to be public.

22. Unless they otherwise agree, at least five clear days' notice of the time fixed for proceeding with the reference shall be given by the Registrar to all parties to the submission. 9 Edw. VII. c. 36, s. 22.

Notice of hearing.

23. There shall be no appeal from the award, but it may be set aside for fraud or for misconduct but not for any other cause, and, unless so set aside, it shall be binding and conclusive upon the parties to the submission and shall be a final settlement of the matter in difference. 9 Edw. VII. c. 36, s. 23.

Award may only be set aside for fraud.

24. The costs of the reference and award shall be in the discretion of the arbitrators, who shall have power to direct to and by whom and in what manner and within what time the same shall be paid, but no fees or costs shall be payable except witness fees, arbitrators' fees, Registrar's fees and office fees. 9 Edw. VII. c. 36, s. 24.

Costs in discretion of arbitrators.

25. Unless the parties agree in writing to pay specified fees of a larger amount the following fees shall be allowed:

Arbitrators' fees.

(a) To each arbitrator who shall be present at the hearing of the case, a fee of not more than \$5 for each sitting;

(b) For office fee, including Registrar's assistance, forms, and room, \$5 for the first sitting, and \$3 for each sitting thereafter, of which the arbitrator shall apportion so much as they may see fit to the Registrar for his attendance. 9 Edw. VII. c. 36, s. 25.

26.—(1) Unless the parties otherwise agree in writing the award may be made by a majority of the arbitrators.

Award of majority to be binding.

(2) Any act which is directed by this Act to be or which may be done by a board of arbitrators shall be valid if done by any two of them; and in case of the appointment of three arbitrators the neglect or refusal of any arbitrator to act shall not invalidate the proceedings taken by the majority of the arbitrators appointed. 9 Edw. VII. c. 36, s. 26.

Validity of acts done by majority.

27.—(1) If the parties to the submission do not take up the award within seven days after notice of the publication thereof has been sent by the Registrar to them by registered post at their last known place of business or residence, the

Recovery of fees where award not taken up.

Registrar may obtain an order from the arbitrators or a majority of them for the payment of the fees hereinbefore provided for.

Filing order and issuing execution in the county court of York.

(2) Upon such order being produced to the Clerk of the County Court of the County of York he shall file the same, and shall issue execution in the name of the Registrar against the goods and lands of the parties named therein as upon a judgment in such Court, for the amount of such fees and the costs proper to be taxed in the discretion of such Clerk for the order and execution; and such execution shall have the same force and effect as an execution in an action in such Court. 9 Edw. VII. c. 36, s. 27.

Council of Board of Trade may make rules.

28.—(1) The Council of the Board may make rules and regulations not inconsistent with the provisions of this Act for the efficient carrying out of the objects of this Act and the awards made thereunder.

Approval thereof by Lieutenant-Governor in Council.

(2) The rules and regulations so made shall not take effect until approved by the Lieutenant-Governor in Council. 9 Edw. VII. c. 36, s. 28.

Act not to affect arbitrations between members of the board.

29. This Act shall not interfere with or affect the provisions of the Acts relating to the Board of Trade of the City of Toronto, or to arbitrations between the members thereof, or to the by-laws and rules framed under such Acts. 9 Edw. VII. c. 36, s. 29.

Formation of boards of arbitration in other cities.

30.—(1) Upon the application of a Board of Trade duly formed in pursuance of the Revised Statutes of Canada, chapter 124, respecting the incorporation of Boards of Trade or otherwise, in any city having a population of not less than 30,000 according to the last preceding Dominion or municipal census, the Lieutenant-Governor in Council may direct that such Board of Trade may avail itself of the provisions of this Act and form a Chamber of Arbitration, as provided by this Act in the case of the Board of Trade of the City of Toronto, and the provisions of this Act, *mutatis mutandis*, shall apply to such Board of Trade.

Evidence of population of city.

(2) The Order in Council shall be conclusive evidence that the city named therein is a city of 30,000 inhabitants.

Order to be laid before the Assembly.

(3) A copy of the Order in Council shall be laid before the Assembly at the first session after the passing thereof. 9 Edw. VII. c. 36, s. 30.

Application of Rev. Stat. c. 65.

31. Where not inconsistent with the provisions of this Act the provisions of *The Arbitration Act*, excepting clause (b) of section 9 and section 29, shall apply to an arbitration under this Act. 9 Edw. VII. c. 36, s. 31.

FORM 1.

(Section 10.)

SUBMISSION TO ARBITRATION.

Agreement made this day of 19 ,
between of and of

Whereas differences have arisen between the parties hereto in respect of and they have agreed to refer such differences to arbitration upon the terms and conditions contained in the Act of the Legislature of the Province of Ontario intituled *The Boards of Trade General Arbitration Act*.

Now it is hereby agreed by the said parties that all matters in difference between them in relation to the premises shall be and are hereby referred to (or to and) and, in case they cannot agree upon a third arbitrator within three days, to such third arbitrator as the Registrar of the Chamber of Arbitration may select (or as the case may be).

In witness whereof the said parties have hereunto set their hands and seals.

Signed, sealed and delivered } [L.S.]
in the presence of } [L.S.]

9 Edw. VII. c. 36, Form 1.

FORM 2.

(Section 5 (1).)

FORM OF OATH OF ARBITRATORS.

I, solemnly swear that I will faithfully, diligently and impartially perform my duties as arbitrator, and I will in all cases submitted to me, give a true and just award according to the best of my judgment and ability, without fear, favour or affection of or for any party or person whomsoever. So help me God.

9 Edw. VII. c. 36, Form 2.

FORM 3.

(Section 11.)

SUMMONS TO WITNESS.

In the matter of an Arbitration between A.B. and C.D. under
The Boards of Trade General Arbitration Act.

To E.F.

I do hereby in the exercise of the powers in that behalf given by the said Act, summon and require you to attend at on the day of 19 , at the hour of in the noon before the arbitrator (or arbitrators) there to be examined and give evidence on behalf of and also to bring with you and produce at the time and place aforesaid (*specify documents or things to be produced*).

In default of your attending at the time and place aforesaid you are liable to be proceeded against under the provisions of the Act.

In witness whereof I have hereto set my hand this
day of 19 .

A.B.,
Registrar of the Board of Arbitration.

9 Edw. VII. c. 36, Form 3.
